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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,472	01/29/2004	Christopher G. Walls	501247.00425	3613

7590  
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11/16/2007

EXAMINER
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BARRETT, SUZANNE LALE DINO

ART UNIT	PAPER NUMBER
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3673

MAIL DATE	DELIVERY MODE
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11/16/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/767,472	WALLS ET AL.	
	Examiner Suzanne Dino Barrett	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 27 August 2007.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1,2,5-7 and 36-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 36-47 is/are allowed.
- 6) Claim(s) 1,2,5-7 and 48 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 48 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claims 48, the disclosure is still confusing as to whether Applicant is trying to claim a kit type claim which includes both configurations wherein the adaptor is not used in a first configuration and the adaptor is used in a second configuration, or whether the first and second configurations are used in the same assembly, i.e. the top bolt uses the adaptor and the bottom does not. Although Applicant has refuted this scenario in his remarks on page 12, claim 48 can be interpreted in this manner. It is clear that the invention is in the adaptor and the first configuration claimed "lock assembly structure" is not the same as the second configuration claimed "lock assembly structure". Therefore, since there is only one "lock assembly" set forth in the preamble of claim 48, it must necessarily claim one configuration or the other, not both.

Applicant's remarks on page 11 point to the specification page 8 and highlight the "optional use" of the adaptor. However, claim 48 does not present the configurations in the alternative, but rather claims both configurations in a product claim. In claiming both configurations, the scope of the lock assembly is unclear and indefinite. Furthermore, on

page 12 of the remarks, line 2, Applicant argues that one would understand the adjustment from one configuration to the other "by removal of the first extension bolt". However, in a product claim, structure that has been recited cannot then be removed. This scenario can only be present in a method claim. It is further noted that applicant's arguments regarding claim 48 are method arguments and not relevant to the product claim. Accordingly, claim 48 is indefinite since the scope of the claim cannot clearly be ascertained as written. Applicant could perhaps present a Jepson type claim reciting the conventional door lock assembly, actuator and bolt and wherein the improvement comprises providing an adaptor to space the bolt.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1,2,5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hagstrom 1,094,143 in view of Ericson 654,579. Hagstrom teaches a multi-point door lock assembly comprising a central lock member (6) with first and second actuators (37,38,40), first and second extension bolts (51) and first and second adaptors (53), removably attached at one end to the actuator by a fastener projection (52) and at the other end spaced from the actuator to the bolt such that the length of the adaptor body (53) spaces the bolt from the actuator axis to accommodate various door structures and

dimensions. Hagstrom fails to provide threaded attachment of the adaptor to the bolt, instead using an aperture. Ericson teaches the threaded bolt received in the threaded adaptor (J) as discussed above. It would have been obvious to one of ordinary skill in the art to modify the connection means of Hagstrom by substituting threaded fastening as taught by Ericson as a well known functional equivalent. Furthermore, with respect to claims 6,7, Hagstrom fails to explicitly teach an adaptor with a length between the actuator and lock bolt of between  $\frac{1}{4}$  inch and  $\frac{3}{4}$  inch. It would have been an obvious matter of design choice to make the adaptor within the claimed range, since a modification would have involved a mere change in size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art.

***Allowable Subject Matter***

5. Claims 36-47 are allowed.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1,2,5-7,48 have been considered but are moot in view of the new ground(s) of rejection.

7. In response to Applicant's amendments, new claim 48 is now rejected under 35 USC 112 on the same rationale as previously applied against claim 26. With respect to claims 1,2,5-7, it is maintained that the previously cited Hagstrom reference clearly teaches two actuators and two extension bolts using adaptors as shown in the drawings and discussed above. Accordingly, claims 1,2,5-7,48 stand finally rejected.

8.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzanne Dino Barrett whose telephone number is 571-272-7053. The examiner can normally be reached on M-Th 8:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Suzanne Dino Barrett  
Primary Examiner  
Art Unit 3673

sdb